

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN BAX,

Petitioner,

v.

H.J. MARBERRY, Warden,  
FCI McKean,

Respondent.

Civil Action No. 06-296 Erie

**MEMORANDUM ORDER**

This petition for writ of habeas corpus was received by the Clerk of Court on December 15, 2006 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's Report and Recommendation, filed on January 15, 2008 [13], recommended that the petition for writ of habeas corpus be denied and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at FCI McKean, where he is incarcerated, and on Respondent. Objections were filed by Petitioner on February 4, 2008 [14] and a response was filed by the Respondent on February 14, 2008 [15]. After de novo review of the petition and documents in the case, together with the Report and Recommendation, Petitioner's objections and Respondents response thereto, the following order is entered:

AND NOW, this 15<sup>th</sup> day of February, 2008;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus be, and hereby is, DENIED. IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on January 15, 2008 [13], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, Chief U.S. Magistrate Judge